



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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E-Mail: siting.council@ct.gov

www.ct.gov/csc

VIA ELECTRONIC MAIL

August 3, 2018

Windham Solar LLC
c/o Ecos Energy LLC
ATTN: Steve Broyer
222 South 9th Street
Minneapolis, MN 55402

RE: **PETITION NO. 1220** - Windham Solar LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of three 2.0 Megawatt and one 1.0 Megawatt Solar Photovoltaic Electric Generating facilities located at 1219 and 1240 Voluntown Road, Griswold, Connecticut.

Dear Mr. Broyer:

The Connecticut Siting Council (Council) requests your responses to the enclosed questions no later than August 17, 2018. To help expedite the Council's review, please file individual responses as soon as they are available.

Please forward an original and 15 copies to this office, as well as a copy via electronic mail. In accordance with the State Solid Waste Management Plan, the Council is requesting that all filings be submitted on recyclable paper, primarily regular weight white office paper. Please avoid using heavy stock paper, colored paper, and metal or plastic binders and separators. Fewer copies of bulk material may be provided as appropriate.

Any request for an extension of time to submit responses to interrogatories shall be submitted to the Council in writing pursuant to §16-50j-22a of the Regulations of Connecticut State Agencies.

Yours very truly,

Melanie A. Bachman
Executive Director

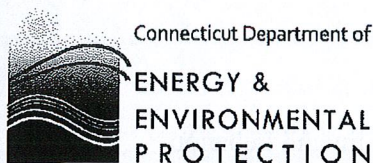
MB/MP

c: Council Members

Attachment: DEEP Comments August 2, 2018

Petition No. 1220
Site Clearing Development and Management Plan
Interrogatories
Set Two
August 3, 2018

1. By email dated August 1, 2018, Windham Solar LLC (WS) noted that typical tree cutting methods such as “equipment mounted cutting devices” or “chainsaws” may be used. Explain specifically what kinds of “equipment mounted cutting devices” would be used. WS also notes that a mower mounted on a skid steer would be used for mowing/brush cutting. What is a skid steer? Would any of the cutting or mowing equipment be considered heavy equipment, and would it disturb soils? For example, would such equipment cause tire ruts at the site?
2. Are any erosion and sedimentation controls specified for the tree clearing operation? If so, please submit details. If not, why are no controls proposed? Is the lack of controls consistent with the 2002 *Connecticut Guidelines for Soil Erosion and Sedimentation Control*—Chapter 4, Part 1?
3. WS also noted that the normal working hours would be 7:00 a.m. to 6:00 p.m. Please provide the days of the week/weekend for these standard hours, e.g. Monday through Friday.
4. Comparing the approved “Overall Site Plan” dated June 6, 2016 and the Site Clearing Exhibit dated July 19, 2018, are the proposed tree and brush clearing areas no larger than originally approved? Explain. Is the brush clearing area on the west side of Project 1 slightly less than the approved clearing area in order to provide a wetland buffer?
5. Will the resulting logs, branches and wood waste be shipped off-site? If so, what type of equipment would be used to remove the logs and wood waste from the site? Would there be a centralized loading location? If not being shipped off-site, how would the wood materials be stored/used at the site?
6. What is the status of the submission of the stormwater pollution control plan (SWPCP) to the Connecticut Department of Energy and Environmental Protection (DEEP)?
7. Attached is correspondence from DEEP dated August 2, 2018. Please respond to this correspondence.



79 Elm Street • Hartford, CT 06106-5127

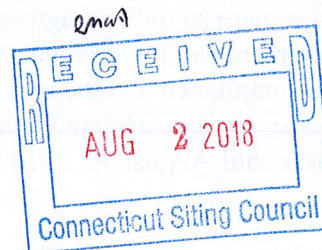
www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

Via E-mail to melanie.bachman@ct.gov and First-Class Mail

August 2, 2018

Melanie Bachman
Acting Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT



Re: Petition 1220 – Site clearing request

Dear Ms. Bachman:

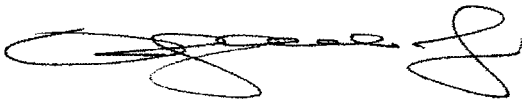
I write on behalf of the Department of Energy and Environmental Protection (the Department) to express the Department's concerns about the above-referenced petition. For the following reasons, the Department urges that you deny the Petitioner's request or that you continue the matter until the Siting Council's August 30, 2018 meeting so that additional information can be collected.

First, the Petitioner does not have authorization to disturb this site under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit). The Department does not have a record that a General Permit registration and Stormwater Pollution Control Plan was filed with the Department. Given the scale of activity proposed, the Department does not see how such widespread clearing activity can occur without disturbing soils at the site and causing some form of erosion and sedimentation. The plan accompanying the request does not present sufficient detail about how the proposed clearing activities would be accomplished or how the site will be stabilized should soil disturbance occur as a result of heavy equipment or unanticipated conditions in the field. Such activity cannot occur without the Department's approval under the General Permit.

Second, the Petitioner, is currently the subject of an ongoing enforcement action regarding a solar project the Petitioner owns and operates at 10 Williams Crossing in Lebanon and Franklin. The Department issued a Cease and Desist Order to the Petitioner for significant violations of the General Permit. The existing Cease and Desist Order is attached and includes violations of concern that are relevant to the above-referenced site clearing request, including: conducting significant grading activities without an approved Stormwater Pollution Control Plan; not adhering to requirements to clear and stabilize the site in phases; and not adequately stabilizing the site after construction was complete. In the instant matter, the lack of detail in the proposed plans and the likelihood that soils at the site will be disturbed in some manner are of particular concern given the poor performance of the Petitioner at its site in Lebanon and Franklin.

The Cease and Desist order remains in effect for the project in Franklin and Lebanon despite the Department's effort to resolve the matter through a consent order. Although the Petitioner has made efforts to stabilize the site in Lebanon and Franklin, the Petitioner still has not fully and properly implemented the required stormwater controls at this site despite being in operation. The site remains out of compliance with the requirements of the General Permit and will remain so until an agreement on the consent order is reached or until the Petitioner fully implements all requirements of the Cease and Desist Order. Again as a result of this current non-compliance and the lack of authorization from the Department to implement the proposed request, the Department urges the Siting Council to deny the Petitioner's request or to defer action until August 30, 2018 so that further details can be provided by the Petitioner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Oswald Inglese, Jr.', with a stylized flourish at the end.

Oswald Inglese, Jr.

Director

Water Permitting and Enforcement Division

Cc: Robert J. Klee, Commissioner, DEEP
Robert Kaliszewski, Deputy Commissioner, DEEP
Kenneth M. Collette, Staff Attorney 3, DEEP

STATE OF CONNECTICUT :

v. :

WINDHAM SOLAR LLC,
ALLCO FINANCE LIMITED, AND
ECOS ENERGY LLC :

CEASE AND DESIST ORDER NO. 2018003DEEP

Date Issued: May 3, 2018

A. The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Windham Solar, LLC (“Windham Solar”) is a Connecticut Limited Liability Company with a business address of c/o Allco Finance Limited, 1745 Broadway, 17th floor, New York, New York 10019.
2. Windham Solar is a wholly-owned subsidiary of Allco Finance Limited.
3. Ecos Energy LLC is a Minnesota Limited Liability Company affiliated with Allco Finance Limited with a principal place of business at 222 S 9th Street #1600 Minneapolis, MN 55402.
4. Collectively, Windham Solar, Ecos, and Allco are referred to as the Respondents.
5. The Respondents are currently engaged in the construction of a ground-mounted solar photovoltaic facility (“the Solar Array”) located at 1 Williams Crossing in Lebanon and Franklin, Connecticut. The property is primarily in Lebanon and consists of approximately 39.02 acres in Lebanon and 5.52 acres in Franklin and is referred to as “the Site.”

STORMWATER VIOLATIONS

6. Construction of this solar array has or will disturb greater than one acre at the Site and as such, requires, among other permits, a stormwater discharge permit from the Commissioner.
7. On July 27, 2017, Ecos submitted submitted to the Department of Energy and Environmental Protection (“DEEP”) on behalf of Windham Solar a registration application

seeking authorization under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities ("the General Permit"), which included the submittal of a Stormwater Control Plan (SWPCP) required by the General Permit. On October 17, 2017, Windham Solar's registration was approved by the Commissioner, as registration No. GSN003212.

8. Under section 5(b)(2)(A)(i) of the General Permit and the Site's SWPCP, disturbed sections of the Site shall be minimized and stabilized.
9. Under section 5(b)(2)(A)(ii) of the General Permit and the Site's SWPCP, all temporary sediment traps are required to be installed *prior to* any other disturbance of the Site.
10. At the direction of and with the oversight of Ecos and prior to October 2017, C-Tec Solar and its subcontractors undertook construction of the Solar Array at the Site and remains involved in construction activities at the Site.
11. The Site was disturbed prior to the approval of registration No. GSN003212 with improperly constructed sediment traps installed in violation of the approved design in the SWPCP. All or a significant portion of the Solar Array was constructed at the Site despite the fact that the Site was not stabilized and proper sediment traps were not installed in accordance with the SWPCP. This activity violated the General Permit and the SWPCP.
12. In March 2018, Ecos contacted the Department to report that Windham Solar was seeking to expand the footprint of the solar array and would be seeking approval of the expansion from the Connecticut Siting Council. DEEP Staff informed Ecos that separate approval under the General Permit would be required before any construction of the proposed expansion, including any disturbance of the proposed expansion area could occur.
13. DEEP staff inspected the site on April 17, 2018. It was observed by staff during the inspection that the Site lacked temporary or permanent soil stabilization with evidence of erosion and sediment breaching the siltation fence and leaving the site in the direction of adjacent wetlands. The temporary sediment traps that were installed were not constructed to guidelines or in accordance with the SWPCP and several have failures in the embankment. Many of the traps appear to be undersized for the drainage area flowing to the trap.
14. During the inspection on April 17, 2018, it was also observed that the Respondents had also disturbed approximately 2 acres on the Site outside of the footprint authorized by GSN003212 without any additional approval from DEEP.
15. Pursuant to Section 5(b)(4)(A) of the General Permit, a "Plan Implementation Inspection" must be conducted within the project's first 30 days to ensure compliance with the General Permit and proper implementation of all control measures designated in the SWPCP. DEEP staff requested the Plan Implementation Inspection Report on March 22, 2018 and received a memo from All-Points Technology Corporation, P.C. (All-Points) on April 25, 2018. The memo dated April 25, 2018 identifies observations and recommendations made

regarding lack of stabilization; defects in temporary sediment traps, including the risk of failure at TST-P2 and TST-P1C; and compromised siltation fence, including evidence of over topping and discharge of sediment. The memo does not comply with the requirements in the General Permit for a Plan Implementation Inspection Report.

16. The Respondents have not notified DEEP of any non-compliance with the General Permit or SWPCP despite the fact that the temporary sediment traps had not been installed in accordance with the SWPCP; the Site was not properly stabilized; and that recommendations were made to stabilize the Site and repair temporary sediment traps by the on-site inspector as referenced in the memo from All-Points..
17. Pursuant to Section 5(b)(4)(B) of the General Permit, "Routine Inspections" are to be conducted on a weekly basis and after any rain event that generates a discharge. The inspector shall evaluate the effectiveness of erosion and sediment controls, structural controls, stabilization practices and any other controls implemented to prevent pollution and determine if it is necessary to install, maintain, or repair such controls and/or practices to improve the quality of stormwater discharge(s). The inspector shall also sign a statement indicating whether the site is in compliance with the General Permit and the SWPCP.
18. The Department received a package of inspection reports that indicate site disturbance began prior to August 20, 2017. The inspection reports submitted do not comply with the requirements of section 5(b)(4)(B) of the General Permit. The inspection reports do not note any non-compliance with the General Permit or SWPCP despite the fact that the temporary sediment traps had not been installed in accordance with the design and the Site was not properly stabilized. The inspection reports note issues with siltation fencing and the discharge of soils and water after rain events but DEEP was never notified of any noncompliance.
19. Pursuant to Section 5(c)(1) of the General Permit, turbidity sampling shall be conducted at the Site at least once a month with the results sent to DEEP. Although construction activities have been conducted at the Site since October 2017, no turbidity sampling results have ever been sent to DEEP or entered into NetDMR.
20. Since the approval of registration No. GSN003212, the Respondents have consistently and repeatedly violated the requirements of the General Permit and the SWPCP.
21. As a result of the activities noted in paragraphs 1 to 16 above, eroded sediments from the Site have unlawfully been deposited off-site and in close proximity to inland wetlands and watercourses, risking pollution to such wetlands or watercourses.

VIOLATION SUMMARY

22. By virtue of the above, the Commissioner finds that the Respondents:

Windham Solar LLC
Cease and Desist Order

- a. Are causing, engaging in or maintaining, or are about to cause, engage in or maintain, a condition or activity which will result in or is likely to result in imminent and substantial damage to the environment;
 - b. Have violated and are continuing to violate the terms and conditions of the General Permit and registration No. GSN003212, that such violations are substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided; and
 - c. Have and are conducting, or are about to conduct an activity which will result in or is likely to result in imminent and substantial damage to the environment within the jurisdiction of the Commissioner, for which a license, as defined in Conn. Gen. Stat. § 4-166, is required without obtaining such license.
- B. Pursuant to Conn. Gen. Stat. §22a-7, and the Commissioner orders the Respondent to:
1. Cessation of Activities: Effective immediately upon receipt of this Cease and Desist Order ("the Order"), until the Commissioner has made the determination provided for in paragraph B.2.b.vii.I. of this Order, each of the Respondents, including, but not limited to, the persons or entities identified in Conn. Gen. Stat. § 22a-7(b), shall cease and desist from engaging in, and ensure that no other person engages in, any further activities at the Site including, but not limited to, all construction of or testing activities related to the Solar Array, vehicular movement on the Site, and any movement of soil, unless such activity is required by or in compliance with this Order or is otherwise approved by the Commissioner in writing.
 2. Stormwater Compliance:
 - a. Effective immediately upon receipt of this Order, each Respondent shall ensure that during rain events sediments do not run-off the Site.
 - b. Site Stabilization/Short Term Control Measures
 - i. No later than three (3) days after receipt of this Order, the Respondents shall apply erosion control tackifier ("tackifier"), or a substitute erosion control measure approved by the Commissioner in writing, suitable to stabilize the Site and prevent erosion, including, but not limited to, the migration of sediments, at or from all areas of the Site until such time that an appropriate permanent stabilization measure – such as a vegetative cover – is established at all areas of the Site. Tackifier, or a substitute erosion control measure approved by the Commissioner in writing, shall be applied to all areas of the Site, including, but not limited to, areas of the Site where solar panels have been installed, are being installed and will be installed. The Respondents shall photograph the application of tackifier or a substitute erosion control measure approved by the Commissioner to all areas of the Site, and within 5 day of completing such application, provide a photographic record to the Commissioner demonstrating compliance with this paragraph.

ii. Survey and Solar Panel Plan

- I. No later than three (3) days after receipt of this Order, the Respondents shall have a land surveyor, with a current valid license to practice in Connecticut, perform a detailed T-2 topographic survey of the entire Site using the same datum as the approved SWPCP, with 2-foot contour intervals of the current grades at the entire Site unless a survey to a different standard other than the T-2 standard is approved in writing by the Commissioner. This survey shall, at a minimum, show the location where all temporary stormwater management features including, but not limited to, temporary diversion channels and temporary sediment traps need to be installed in accordance with the approved SWPCP. At a minimum, spot elevations will be required along the gravel roadway, all pipe inverts, bottom elevations, top of embankments, and spillways of all temporary diversion channels and temporary sediment traps. In the event that during the process of performing a survey the Respondents disturb the tackifier or other erosion control measure applied to the Site, the Respondents shall reapply tackifier or such other erosion control measure, no later than at the end of each working day, to ensure that the Site remains stabilized and to prevent erosion, including, but not limited to, the migrations of sediments at or from the entire Site. Any such surveys shall be signed and sealed by the Land Surveyor, and upon completion, submitted for the Commissioner's review. Such survey shall be completed prior to development of the Long Term Control Measures under paragraph B.2.c of this Order.
 - II. In lieu of having a land surveyor survey the Site in compliance with the paragraph B.2.b.ii.I of this Order, within the timeframe prescribed in this paragraph, the Respondents may provide documentation that demonstrates to the Commissioner's satisfaction that such survey has previously been completed in accordance with the requirements of this paragraph.
 - III. In addition, the Respondents shall provide a plan depicting the location of, dimensions of, and spacing between the solar panels, whether installed or to be installed with sufficient detail to calculate the impervious area that results from the installed panels as it relates to the Water Quality Volume Calculation.
- iii. No later than ten (10) days from their receipt of this Order, the Respondents shall complete installation of the sediment traps and all other sediment erosion and control measures identified in the SWPCP approved by the Commissioner for the Site, unless otherwise approved by the Commissioner in writing.
- iv. No later than thirty (30) days after receipt of this Order, the Respondents shall have a professional engineer with a current valid license to practice in Connecticut review the sediment traps and all other sediment erosion and control measures identified in the SWPCP to determine if such traps and all other sediment erosion and control measures have been constructed and

installed in accordance with the SWPCP approved by the Commissioner, are working properly, and if any modifications or additions to such SWPCP are necessary to comply with the General Permit and prevent erosion and the migration or discharge of sediment at or from the Site. Within the timeframe prescribed in this paragraph, the Respondents shall ensure that such professional engineer submits a report to the Commissioner detailing the results of their review. Such report shall contain a recommendation for any additions or modifications to the SWPCP, including a schedule for implementation for the Commissioner's review and approval.

- v. The Respondents shall implement any modifications or additions to the SWPCP approved in writing by the Commissioner under paragraph B.2.b.iv of this Order.
- vi. No later than ten (10) days after completing installation of the sediment traps and all other sediment erosion and control measures identified in the SWPCP, including any modifications or additions approved by the Commissioner under paragraph B.2.b.v of this Order (hereinafter, "the Short Term Control Measures"), the Respondents shall submit to the Commissioner:
 - I. As-built drawings of the Short Term Control Measures, signed and sealed by a professional engineer with a current valid license to practice in Connecticut; and
 - II. A photographic record of the installation of the Short Term Control Measures. The photographic record shall be sufficient for the Commissioner to determine if the Short Term Control Measures were constructed and installed in accordance with the requirements of this Order.
- vii. I. After receipt of the documentation required by paragraph B.2.b.vi. of this Order, the Commissioner shall make a written determination, within a reasonable time period, whether the installation of such Short Term Control Measures is satisfactory to the Commissioner. Any such determination shall not be unreasonably withheld. If implementation of the Short Term Control Measures is deemed unsatisfactory by the Commissioner, additional work shall be performed by the Respondents in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and written approval on or before fourteen (14) days after notice from the Commissioner that additional work is necessary.
- II. Once the Commissioner has determined, in writing, that implementation of the Short Term Control Measures is satisfactory, the Respondents may recommence installation and testing of the Solar Array at the Site, but shall

not energize the Solar Array for commercial purposes, i.e., cannot Declare a Commercial Operation Date.

c. Long Term Control Measures:

- i. No more than twenty-one (21) days from the date that the Respondent has completed installation of the Short Term Control Measures to the satisfaction of the Commissioner, the Respondents shall submit for the Commissioner's review and written approval, a plan for Long Term Control Measures regarding the management of stormwater at the Site. At a minimum, such measures shall
 - I. A description of the post-construction stormwater controls to be implemented, monitored and maintained at the Site. This shall include the design criteria, stormwater calculations, and drainage patterns used in determining such post-construction controls and a proposal for implementing and maintaining such controls, including, but not limited to, a permanent vegetative cover or some other permanent stabilization measure necessary for stabilization of all areas of the Site. The proposal shall also include the application or reapplication of tackifier or some other erosion control measure, where needed, at the end of each day to ensure that the Site remains stabilized, to prevent erosion, including, but not limited to, the migration or discharge of sediments, at or from all areas of the Site;
 - II. A proposed inspection and construction log, including a photograph record of milestone events so that the Respondents can provide the Commissioner a photographic record sufficient for the Commissioner to determine if the post-construction stormwater controls have been installed in accordance with the approved plan for Long Term Control Measures;
 - III. A proposal for monitoring and maintaining the effectiveness of post-construction stormwater controls at the Site. At a minimum, any such proposal shall at a minimum include, for two (2) years, inspections to determine whether the permanent vegetative cover or other permanent stabilization measure at the Site is preventing erosion, including, but not limited to, the migration or discharge of sediments, at or from all areas of the Site and monitoring at each discharge point at the Site for turbidity; and
 - IV. A schedule for installing, monitoring and maintaining the effectiveness of such post-construction stormwater controls.
- ii. The Respondents shall implement the plan regarding Long-Term Control Measures as approved in writing by the Commissioner.
- iii. I. No later than twenty-one (21) days after completing the installation of the post-construction stormwater controls, (exclusive of the establishment of a permanent vegetative cover and the monitoring and maintenance required under paragraph B.2.d below), the Respondent shall provide the

Commissioner a written notification of such completion and submit the following to the Commissioner:

- a. As-built drawings of any post-construction stormwater controls at the Site, signed and sealed by a professional engineer with a current valid license to practice in Connecticut; and
 - b. A photographic record sufficient for the Commissioner to determine if the post-construction stormwater controls, if any have been installed in accordance with the plan for Long Term Control Measures approved in writing by the Commissioner.
- II. After receipt of the documentation required by paragraph B.2.c.iii.I of this Order, the Commissioner shall make a written determination, whether the Respondent's installation of the Long Term Control Measures post-construction stormwater controls is satisfactory to the Commissioner. Any such determination shall not be unreasonably withheld. If implementation of the Long Term Control post-construction stormwater controls is deemed by the Commissioner to be unsatisfactory, additional work shall be performed by the Respondent in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondent for the Commissioner's review and approval on or before fourteen (14) days after notice from the Commissioner that additional work is necessary.
- iv. I. No later than ten (10) days after the establishment of a permanent vegetative cover or other measure necessary for permanent stabilization of all areas of the Site, the Respondent shall provide the Commissioner a written notification of such completion and submit to the Commissioner a photographic record sufficient to demonstrate to the Commissioner that such permanent vegetative cover or other permanent stabilization measure has been established at the Site in accordance with the Long Term Control Measures plan approved by the Commissioner.
- II. After receipt of the materials required by paragraph B.2.c.iv.I of this Order, the Commissioner shall make a written determination whether a permanent vegetative cover or other permanent stabilization necessary for stabilization of all areas of the Site, has been established to the satisfaction of the Commissioner. Any such determination shall not be unreasonably withheld. If the Commissioner determines that permanent Site stabilization had not been established, the Respondent shall perform additional work in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondent for the Commissioner's review and approval on or before ten (10) days after notice from the Commissioner that additional work is necessary.

- d. Monitoring. After the Commissioner determines that permanent site stabilization has been established pursuant to paragraph B.2.c.iv.II of this Order, the Respondent shall implement the monitoring and maintenance in the Long Term Control Measures plan approved in writing by the Commissioner. Such monitoring shall be conducted for not less than two (2) years.
3. Compliance with General Permit. Unless the Commissioner specifically provides otherwise in writing, the Respondents shall continue to comply with the General Permit and shall ensure that all activities at the Site remain in compliance with the General Permit.
4. Financial Assurance: No later than five (5) days after the issuance of this Order, the Respondents shall provide a letter of credit in the amount of one-million dollars (\$1,000,000.00). The wording of such letter of credit must be identical to the wording specified in Appendix A of this Order. The Respondent shall maintain this letter of credit in effect until the Commissioner notifies the Respondent, in writing, of the Commissioner's determination that the monitoring required under paragraph B.2.d of this Order has been completed. The Commissioner shall follow any reasonable instructions from the issuing bank in connection with the termination of the letter of credit.
5. Remediation
 - a. No later than three (3) days after receipt of this Order, the Respondents shall retain a certified soil scientist or a wetland biologist acceptable to the Commissioner to perform an assessment of off-site and wetland impacts due to erosion, including, but not limited to, the migration of sediments at or from all areas of the Site.
 - b. No later than thirty (30) days after receipt of this Order, the Respondents shall submit for the Commissioner's review and written approval a comprehensive and thorough report that: assesses the extent, quantity and location of all sediments deposited off-site or in wetlands and watercourses; proposes any necessary off-site and wetland or watercourse remediation; lists all permits and approvals required for such remediation, including, but not limited to, any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430 of the Connecticut General Statutes; and proposes a detailed program and schedule to perform the recommended remedial actions. The recommended remedial actions shall include a schedule for applying for and obtaining all state and local permits and approvals required for such actions.
 - c. The Respondents shall implement the remedial actions in the plan approved in writing by the Commissioner under paragraph B.4.b of this Order in accordance with the schedule in such plan. Within fifteen (15) days after completing such actions, the Respondents shall notify the Commissioner in writing that the actions required by the approved plan have been completed.

- d. If the Commissioner determines that the Respondents failed to fully identify the extent, quantity and location of all sediments or the Respondents proposed or actual remedial actions do not adequately abate sediment impacts, additional assessment and remediation shall be performed by the Respondents in accordance with a supplemental plan and schedule proposed by Respondents and approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, Respondents shall submit such supplemental plan and schedule for the Commissioner's review and written approval on or before fourteen (14) days after written notice from the Commissioner that such plan is required.
 - e. Respondents shall use best efforts to obtain access to property not owned or controlled by the Respondents to comply with paragraph B.4 of this Order. If the Commissioner determines that the Respondents cannot obtain access to property not owned or controlled by the Respondents to comply with the requirements of paragraph B.4 of this Order, the Commissioner shall notify the Respondents in writing and the requirements of this Order shall not apply to any such property.
6. Consultant. Unless otherwise specified in this Order, on or before three (3) days from the date of this Order, Respondents shall identify one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this Order. Respondents shall retain one or more qualified consultants acceptable to the Commissioner until this Order is fully complied with, and, within three days after retaining any consultant other than one originally identified under this paragraph, Respondents shall notify the Commissioner in writing of the identity of such other consultant. Unless otherwise specified in this Order, such consultant(s) retained by the Respondents shall be a Professional Engineer, with a current valid license to practice in Connecticut, acceptable to the Commissioner. If requested by the Commissioner, Respondents shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this Order within ten (10) days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable. The consultant approved by the Commissioner under this paragraph shall be present at the Site during all phases of construction and post-construction activities required under this Order.
7. Progress reports. The Respondents shall submit a weekly progress report, in writing, to Sharon Yurasevecz of the Department or another contact designated by the Commissioner pursuant to paragraph B.23 of this Order. This report shall identify the work performed during the week preceding the report, including but not limited to, details regarding how construction was performed and the work expected to be completed during the week following the report. After the Commissioner determines that permanent site stabilization has been established pursuant to paragraph B.2.c.iv.II of this Order, on or before the last day of each month following the issuance of this Order, and continuing until all actions required by this Order have been completed as approved and to the satisfaction of the Commissioner, Respondents shall submit a progress report to the Commissioner that describes the actions which Respondents has taken to date to comply with this Order.

8. Full compliance. Respondents shall not be considered in full compliance with this Order until Respondents' activities at the site are in compliance with the General Permit, and all other actions required by this Order have been completed as approved and to the Commissioner's satisfaction.
9. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Order. Nothing in this paragraph shall excuse noncompliance or delay.
10. Definitions. As used in this Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. Dates. The date of "issuance" of this Order is the date the Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or personally delivered, whichever is earlier. Except as otherwise specified in this Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Order shall be signed by a responsible corporate or municipal officer of the appropriate Respondent(s) or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual(s) responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law."

13. Noncompliance. Failure to comply with this Order may subject Respondents to an injunction and penalties.
14. False statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b or any other applicable law.
15. Notice of transfer; liability of Respondent and others. Until Respondents have fully complied with this Order, Respondents shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Order or after obtaining a new mailing or location address. Respondents' obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality.
16. Commissioner's powers. Except as provided hereinabove with respect to payment of penalties, nothing in this Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Order have not successfully corrected all violations, fully characterized the extent and degree of pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondent's obligations under law. Nothing in this Order shall relieve Respondents of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
19. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Order.
20. No effect on rights of other persons. This Order neither creates nor affects any rights of persons who or municipalities which are not parties to this Order.
21. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that Respondents become aware that it did not or may not comply, or did not or may not comply on time, with any requirement of

this Order or of any document required hereunder, Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondents shall submit in writing the date, time and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the Commissioner's review and written approval, dates by which compliance will be achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

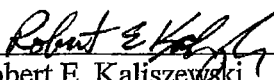
23. Submission of documents. Any document required to be submitted to the Commissioner under this Order shall related to stormwater, unless otherwise specified in writing by the Commissioner, be directed to:

Sharon Yurasevecz
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Water Permitting & Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

24. Joint and Several Liability. The Respondents are jointly and severally liable for compliance with this Order.
25. Hearing. A hearing will be held on May 10, 2018 at 2:00 p.m. in the Russell Hearing, 79 Elm Street, Hartford, Connecticut to provide the Respondents with an opportunity to be heard and show that the conditions described in this Cease and Desist Order or that this Cease and Desist Order is otherwise improper or unlawful.

THIS CEASE AND DESIST ORDER IS IMMEDIATELY EFFECTIVE UPON RECEIPT.

Issued as a cease and desist Order of the Commissioner of Energy and Environmental Protection.


Robert E. Kaliszewski
Deputy Commissioner

May 3, 2018
Date

ORDER NO. 2018001 DEEP
TOWN OF LEBANON
TOWN OF FRANKLIN
LAND RECORDS

APPENDIX A

CTDEEP Financial Assurance Irrevocable Letter of Credit

[Name of Issuing Bank]

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER:

ISSUANCE DATE: _____, 2018

TOTAL AMOUNT: U.S. \$[XXX].00

BENEFICIARY: Commissioner, Connecticut Department of Energy and
Environmental Protection

APPLICANT: [Applicant Name and Address]

Commissioner
Connecticut Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. XXXX in your favor, at the request and for the account of the Applicant, [APPLICANT NAME AND ADDRESS], up to the aggregate total amount of [XXX] U.S. Dollars (\$[XXX].00). We hereby authorize the Commissioner of the Connecticut Department of Energy and Environmental Protection to draw at sight on us, [name and address of issuing bank], an aggregate amount up to the total amount, available upon presentation of:

(1) your sight draft, bearing reference to this Letter of Credit No. [XXXX], and

(2) your signed dated statement reading as follows: "I certify that the amount of the draft is payable because I have determined one or more of the following: (a) one or more violations of the requirements or approvals applicable to the management of stormwater at or emanating from [Address of Site], have occurred, or (b) despite actions taken to manage stormwater at or emanating from the property located at [Address of Site], such stormwater has become a potential source of pollution (as that term is defined in Conn. Gen. Stat. § 22a-423) which the Applicant has been unable to remedy to my satisfaction within five (5) business days of receipt of a written notice from me that a pollution condition exists, or (c) the Applicant no longer [select all that apply: owns/leases or operates] the property or solar array facility at [Address of Site] or (d) the issuing bank has notified me that it has decided not to extend this letter of credit beyond the current expiration date."

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of one year and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and Applicant, [Applicant Name], by certified mail or nationally recognized courier service that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by you, as shown on the signed return receipts or evidence of courier delivery.

Multiple and partial draws on this letter of credit are expressly permitted, up to an aggregate amount not to exceed the total amount. Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into a Connecticut Department of Energy and Environmental Protection dedicated account in accordance with your instructions.

All banking and other charges under this letter of credit are for the account of the Applicant.

This letter of credit is issued subject to the edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce, in effect on the date this Letter of Credit is issued.

By signing, the signatory below certifies, under penalty of law, that the issuing institution is an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

Signature(s) of official(s) of issuing institution

[title(s) of official(s) of issuing institution]

[Date]